

AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2018 (the “Effective Date,”), by and between

THE SCHOOL BOARD OF MIAMI DADE-COUNTY, FLORIDA

(hereafter referred to as “M-DCPS”)

a body corporate and political subdivision of the State of Florida,

whose principal place of business is

Office of Academics and Transformation

Division of Academics

1450 N.E. 2nd Avenue

Miami, Florida 33132

and

THE CITY OF MIAMI BEACH, FLORIDA

(hereinafter referred to as “CMB”)

a body corporate and political subdivision of the State of Florida,

whose principal place of business is

1700 Convention Center Drive, Miami Beach, FL 33139

WHEREAS, to promote educational opportunities through the dual enrollment program in Miami-Dade County, MDC and M-DCPS entered into the 2018-2019 Dual Enrollment Articulation Agreement (the “Articulation Agreement”) on June, 2018, which is attached as Exhibit A and incorporated herein by reference into this Agreement; and

WHEREAS, through this Agreement, in partnership with M-DCPS, CMB seeks to combine its resources with M-DCPS and MDC in order to increase the competitiveness of the students attending Miami Beach Senior High School by nurturing and supporting the dual enrollment programs at Miami Beach Senior High School (the “High School”) and Nautilus Middle School (the “Middle School”); and

WHEREAS, this Agreement provides the guidelines for CMB to financially support the dual enrollment courses at the High School and the Middle School.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 – RECITALS AND DEFINITIONS

- 1.01 Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference. The provisions of this Agreement are subject to the provisions of the Articulation Agreement.
- 1.02 Adjunct Instructor.** The appointment and credentialing of instructional staff at the High School and the Middle School shall be as provided pursuant to the Articulation Agreement, except that pursuant to the Subsection 2.04 below, MDC and M-DCPS shall permit the expansion of the applicant pool for Adjunct Instructor positions at the High School and Middle School to include High School Teachers or Middle School Teachers, as applicable, CMB Residents and CMB Employees and in accordance with the priority set forth in Subsection 2.04. Such persons receiving the credential of Adjunct Instructor pursuant to this Agreement from MDC must adhere to all MDC professional rules, guidelines, and expectations in accordance with the Articulation Agreement, including, but not limited to, background screening requirements.
- 1.03 CMB Employee(s).** As referred to herein, CMB Employee shall be defined as any individual who is employed by CMB whether on a permanent, provisional, original probationary, or other temporary status under the civil service regulations.
- 1.04 CMB Resident(s).** As referred to herein, CMB Resident shall be defined as any person who has resided in the City of Miami Beach for longer than six consecutive months. Proof of residency may be established by presenting two of the following documents: a Florida driver's license, voter's registration, automobile registration, a recorded deed, a lease for place of residence, a utility bill, and other similar documents.
- 1.05 K-8 Center.** Fienberg Fisher K-8 Center (the "K-8 Center"), a public school which matriculates students from kindergarten to 8th grade, located at 1420 Washington Avenue, Miami Beach, Florida 33139.
- 1.06 MDC Faculty.** A full-time or part-time member of the teaching faculty of MDC.
- 1.07 High School.** Miami Beach Senior High School (the "High School"), a secondary school located at 2231 Prairie Avenue, Miami Beach, Florida 33139.
- 1.08 Middle School.** Nautilus Middle School (the "Middle School"), a middle school located at 4301 North Michigan Avenue, Miami Beach, Florida 33140.

1.09 High School Teacher(s) and Middle School Teacher(s). A Miami-Dade classroom teacher, as defined in Section 1012.01(2)(a), Florida Statutes, as may be amended, who is employed on a full-time basis at Miami Beach Senior High School or Nautilus Middle School.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 Term of Agreement. The term of this Agreement shall begin on the Effective Date and end on June 30, 2019, unless this Agreement is terminated or the Articulation Agreement is terminated, whichever may occur first. This Agreement may be renewed for additional periods of time upon the mutual written consent of each Party to this Agreement and subject to such terms and conditions as the Parties shall determine in writing.

In support of the objectives of this Agreement to expand the opportunities of the students of the High School, Middle School, and K-8 Center by enhancing and expanding the existing dual enrollment program at the High School and adding a dual enrollment program at the Middle School, as a condition to renewing this Agreement for an additional period, CMB may request that M-DCPS consider: 1) increasing the number of credentialed High School Teachers and Middle School Teachers; 2) increasing the number of dual enrollment courses offered at the High School and the Middle School; and/or 3) increasing the scope of course subjects being offered at the High School and the Middle School.

2.02 Joint Responsibilities. M-DCPS and CMB shall maintain responsibility for implementing the various components of this Agreement as delineated in this Agreement and the Articulation Agreement.

2.03 MDC Courses offered on the High School and the Middle School Campuses. CMB will provide financial support to M-DCPS, as set forth below, for eligible students to engage in a rigorous curriculum at the High School and Middle School that integrates the core academics necessary to a four (4) year degree and also count toward a high school diploma. Priority registration will provided to 8th grade students attending the Middle School and K-8 Center for classes taught at the Middle School, and to 9th, 10th, 11th and 12th students attending the High School for classes taught at the High School. MDCP-S agrees to permit students enrolled at the High School, Middle School, and K-8 Center (or who otherwise qualify pursuant to Section 1007.271, Florida Statutes) who meet the eligibility requirements outlined in the Articulation Agreement, to dually enroll in MDC courses offered at the High School or Middle School, as applicable. The dual enrollment course offerings at the High School and Middle School shall be set forth in a Memorandum of Understanding (“School MOU”) signed by their respective school principals and the MDC

Campus President, as stipulated in the Articulation Agreement. An exception to the School MOU and this Agreement is that the Student Life Skills (SLS) course may not be offered on-site at the High School or Middle School due to the lower entry requirements. Additionally, only courses providing a minimum of three (3) credits per course will be funded by CMB. Additionally, no courses that require a pre-requisite class may be offered, only general Dual Enrollment classes with no pre-requisite class may be funded by the City.

M-DCPS agrees to permit eligible 8th grade students attending the Middle School and K-8 Center to attend dual enrollment courses at the Middle School.

A. **Marketing.** M-DCPS, and the CMB will work collaboratively to market the programs, provide staff development, transition students, evaluate courses, and assess overall results.

B. **Payment.** The fees for the dual enrollment classes will be allocated as follows:

1. M-DCPS shall reimburse MDC for the provision of dual enrollment courses at the High School and Middle School, at the rates and in the manner stipulated in the Articulation Agreement.
2. M-DCPS shall invoice CMB to reimburse it for the provision of dual enrollment courses at the High School and Middle School for students attending MDC's dual enrollment courses. The total amount of reimbursements paid by CMB to M-DCPS under this Agreement ("CMB Contributions"), shall be paid within thirty (30) days from receipt of a detailed invoice from M-DCPS, setting forth the breakdown of the charges and the number of registered students for each course. CMB Contributions shall not exceed \$28,000.00, or the cost of six (6) three-credit courses, whichever is less, in each fiscal year (from October 1 – September 30). Funding for the CMB Contributions for the 2018-19 school year has been approved by CMB and incorporated into the CMB 2018-19 fiscal year budget. Thereafter, funding for the CMB Contributions shall be subject to budget appropriation and funding approval by the City Commission for each fiscal year.
3. MDCP-S shall provide a copy of the invoice for the courses taught at the High School and Middle School each semester/term to CMB, upon CMB's request.
4. Regardless of the amount of or the timing of payment of CMB Contributions, M-DCPS shall remain liable for reimbursing MDC for the provision of dual enrollment courses at the High School and Middle School, in accordance with the terms of this Agreement and in accordance

with the Articulation Agreement in the event CMB funding is not sufficient or available.

5. CMB is not responsible for paying any costs or additional fees to MDC or M-DCPS for dual enrollment courses provided at the High School and Middle School by High School Teachers or Middle School Teachers, M-DCPS is responsible for material and supply costs in accordance with the Articulation Agreement.
6. It is anticipated that the cost for the student instructional material costs will be \$18,00 for Fall, 2018 and Spring, 2019, based upon 150 enrolled students in six (6) dual enrollment classes. Actual costs will be based on the actual cost for the classes and instructional materials.

2.04 Teacher Credentialing for High School Teachers or Middle School Teachers, CMB Employees, or CMB Residents. In order to increase the pool of qualified teachers at the High School and Middle School, qualified High School Teachers or Middle School Teachers, as applicable, CMB residents and CMB employees may become credentialed as Adjunct Instructors by MDC in accordance with the provisions of this Agreement and the Articulation Agreement. Adjunct Instructors must adhere to all MDC professional rules, guidelines, and expectations in accordance with the Articulation Agreement, including background screening requirements. As provided in this Agreement, the credentialing of Adjunct Instructors is at MDC's sole discretion. The principal of the High School or Middle School shall be responsible for selecting credentialed Adjunct Instructors.

2.05 Policies and Procedures at the High School and Middle School. Prior to commencing any class at the High School or Middle School, an Adjunct Instructor shall meet with the principal of the High School or Middle School, as applicable to discuss and acknowledge any site specific policies and procedures of the High School or Middle School, with which the Adjunct Instructor must comply including, without limitation, the Miami-Dade County public school attendance policies and procedures.

2.06 Course Selection and Scheduling. The High School or Middle School principal shall select the dual enrollment courses to be taught at the High School or Middle School, as applicable, provided that the courses are selected from the dual enrollment courses identified in the Articulation Agreement, and the selected courses are do not require a prerequisite course. The High School is responsible for ensuring that the student placement variables are provided to Miami Dade College prior to scheduling the dual enrollment course. These variables include identifying qualified students and providing the Adjunct Instructor with the class schedule. The dual enrollment courses shall be accessible to all university/college eligible students and may not be restricted to students enrolled in a specific high school academy or program at the High School. The Adjunct Instructor shall strictly adhere to the

2018-2019 Miami-Dade County Public Schools calendar and schedule, a copy of which is attached hereto as Exhibit B. The Adjunct Instructor shall provide instruction every available school day for the fall semester, from August 20, 2018 through January 17, 2019, and for the spring semester, from January 22, 2019 through June 6, 2019.

2.07 Notice. When any of the Parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the representatives designated below by each Party (unless changed by written notice in compliance with the provisions of this paragraph):

To M-DCPS:

Alberto M. Carvalho
Superintendent of Schools
Miami-Dade County Public Schools
1450 N.E. 2nd Avenue, Suite 912
Miami, Florida, 33131

With a copy to:

Ms. Lisette M. Alves
Assistant Superintendent
Office of Academics and Transformation
Division of Academics
Miami-Dade County Public Schools
1501 N.E. 2nd Avenue, Suite 327-K
Miami, Florida, 33131

And a copy to:

Walter Harvey
School Board Attorney
Miami-Dade County Public Schools
1450 N.E. 2nd Avenue, Suite 430
Miami, Florida, 33131

To CMB:

Jimmy Morales
City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

With a copy to:

Dr. Leslie Rosenfeld
Chief Learning Development Officer
City of Miami Beach
1700 Convention Center Drive

Miami Beach, Florida 33139

And a copy to:

Raul Aguila
City Attorney
City of Miami Beach
1700 Convention Center Drive-4th Floor
Miami Beach, Florida 33139

ARTICLE 3 – GENERAL CONDITIONS

3.01 Independent Contractor. The Parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. No Party, nor its respective agents, employees, subcontractors or assignees, shall represent to others that it has the authority to bind any other Party unless specifically authorized in writing to do so. No employee of one Party has the right to the retirement, leave benefits, or any other benefits that may exist for the employees of another Party as a result of the performance of any duties or responsibilities under this Agreement. No Party shall be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for any other Party or their respective officers, employees, agents, subcontractors or assignees.

3.02 Default, Termination and Suspension. If any Party defaults under the terms and conditions of this Agreement, and such default is not cured by such Party within thirty (30) days after receipt of written notice thereof, then the other Parties shall be entitled to pursue any and all remedies available at law or in equity. Any Party may terminate this Agreement upon thirty (30) days' prior written notice to the other Parties, for default.

Each Party reserves the right to terminate this Agreement at any time and for any reason, upon giving thirty (30) days' prior written notice to the other Parties.

1. If said Agreement should be terminated for convenience by M-DCPS as provide herein, M-DCPS shall only be required to pay MDC for the amount for services performed prior to termination of the Agreement and shall be relieved of all obligations under this Agreement. Accordingly, CMB shall only be required to pay M-DCPS for the amount of services performed, subject to the provisions of Section 2.03(B).
2. If said Agreement should be terminated for convenience by the CMB as provide herein, CMB shall be required to pay the M-DCPS for the dual enrollment three-credit courses taught through the end of the Spring 2019 semester, and CMB shall be relieved of all obligations under this

Agreement once the semester courses have been completed and classes have concluded.

Upon receipt of a notice of termination, the nonterminating Parties shall cease incurring additional obligations under this Agreement. However, the terminating Party shall allow the nonterminating Parties to incur all necessary and proper costs which the nonterminating Party cannot reasonably avoid during the termination process.

3.03 Annual Appropriation. The performance and obligations of all Parties under this Agreement shall be contingent upon an annual budgetary appropriation by their respective governing bodies and, in the case of M-DCPS, the allocation of funds for schools and state colleges by the State of Florida. If any Party's annual budgetary appropriation or allocation of funds to fulfill its obligations pursuant to this Agreement is insufficient, this Agreement may be terminated by that Party at the end of the period for which funds have been appropriated or allocated. That Party shall notify the other Parties at the earliest possible time before such termination.

3.04 Excess Funds. If M-DCPS determines that pursuant to this Agreement it erroneously received or was overpaid funds from M-DCPS or CMB, respectively, then the recipient of such funds agrees to promptly notify M-DPCS or CMB, respectively, upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to M-DCPS or CMB, as applicable.

3.05 Public Records. Pursuant to Section 119.0701, Florida Statutes, any Party contracting with M-DCPS, MDC, or CMB is required to: (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement for a period of five (5) years; (b) provide such public records and at a cost in accordance with Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records, transfer records, at no cost, to M-DCPS, or CMB, as applicable, and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements in accordance with State of Florida records retention law and regulations. Each Party shall be responsible for compliance with any public records request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each Party acknowledges that this Agreement, and all attachments thereto, are public records and do not constitute trade secrets.

IF MDCP-S OR CMB HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO

THIS CONTRACT, CONTACT THE M-DCPS CUSTODIAN OF PUBLIC RECORDS AT: 305-995-1128, prr@dadeschools.net, and 1450 N.E. 2nd Avenue, Miami, Florida 33132; OR THE CMB CUSTODIAN OF PUBLIC RECORDS AT:

CITY OF MIAMI BEACH
ATTENTION: CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA, 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411

3.06 Student Records. It is the Parties understanding that CMB shall not have access to student records. However, if CMB does have access to student records, it shall agree to comply with all applicable federal and state laws and regulations and M-DCPS policies and procedures regarding the confidentiality, maintenance and disclosure of such records.

M-DCPS agree to follow the terms and conditions for this provision already in place for the Articulation Agreement.

3.07 Indemnification. Each Party agrees to be fully responsible for its acts of negligence or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations. Notwithstanding the foregoing, each Parties' indemnification herein is subject to applicable laws, including, but not limited to, Section 768.28, Florida Statutes, as may be amended, and the limitations, restrictions, and defenses therein.

Nothing contained herein shall constitute a waiver of sovereign immunity by any of the Parties to this Agreement as it may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.08 Place of Performance. Students enrolled pursuant to this Agreement will attend classes at the High School or Middle School, as appropriate.

3.09 Governing Law and Venue. Each Party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement. This Agreement shall be construed in accordance with the Laws of the State of Florida. The venue for any dispute with respect to this Agreement shall be in Miami-Dade County, Florida. M-DCPS, and CMB shall be responsible for their respective attorney's fees and costs incurred as a result of any action or proceeding under this Agreement.

3.10 Entirety of Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.11 Binding Effect. The terms, conditions, and covenants of this Agreement shall inure to the benefit of and be binding upon M-DCPS and CMB hereto and their successors and assigns.

3.12 Assignment. Neither M-DCPS nor CMB shall assign, sublet, pledge, surrender, transfer, or otherwise encumber or dispose of this Agreement, or any interest it may have hereunder, without prior written consent of the other parties to this Agreement, which consent may be withheld by M-DCPS or CMB, respectively, in their sole discretion.

3.13 Incorporation by Reference. Appendix A, attached hereto and referenced herein, shall be deemed to be incorporated into this Agreement by reference.

3.14 Captions. The titles or headings of sections in this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

3.15 Severability. Should any provision or part of any provision of this Agreement be found to be illegal, invalid, legally unenforceable, and/or against public policy, such that the material provisions of this Agreement (e.g. the provision of dual enrollment courses at the High School or Middle School or the payment for the dual enrollment courses), are not affected thereby, such enforceability shall not prevent enforcement of the remaining provisions or parts of the Agreement. If any material provision of this Agreement is found to be illegal, invalid, legally unenforceable or against public policy, then the entire Agreement is voidable at the option of any Party.

3.16 Preparation of Agreement. The Parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and this resulting Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

3.17 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same formality as this Agreement and executed by each Party hereto. The City Manager of the City of Miami Beach, Florida, on behalf of CMB, shall be authorized to execute any amendment or extension of this Agreement. The Superintendent of Schools or his Designee of the School Board of Miami-Dade County, on behalf of M-DCPS, shall be authorized to execute any amendment or extension of this Agreement.

3.18 Waiver. There shall be no waiver of the right of any Party to demand performance of any of the provisions, terms and covenants of this Agreement nor shall there be a waiver of any breach, default or nonperformance hereof by any Party, unless such waiver is explicitly made in writing by the such Party.

3.19 Force Majeure. No fault, delay, or failure to perform on the part of any Party to this Agreement shall be considered a default, delay or failure to perform, if such a default, delay or failure to perform is due to causes beyond the Party's reasonable control (e.g., hurricane and other acts of God, war, terrorist attacks). In the event of such default, delay, or failure to perform, the performance of the provisions contained herein will be extended upon mutual agreement of all Parties.

3.20 Survival. All representations and warranties made herein, regarding indemnification obligations, obligations to reimburse M-DCPS or CMB, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements and obligations to return public funds shall survive the termination of this Agreement.

3.21 Conflict. If there is a conflict between the provisions of the Articulation Agreement and this Agreement, the provisions of the Articulation Agreement shall control. This Agreement may be modified by the Parties to comply with any applicable statutory requirement of the State of Florida or the State of Florida Department of Education, as may be applicable.

3.22 Authority. Each person signing this Agreement on behalf of each Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing and to bind and obligate such Party with respect to all provisions contained in this Agreement.

The Parties hereto have made and executed this Agreement on the date last signed below.

(The remainder of this page has been intentionally left blank)

FOR THE SCHOOL BOARD OF MIAMI-DADE COUNTY:

THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, MIAMI, FLORIDA:

By: _____
Alberto M. Carvalho
Superintendent of Schools or his Designee

Date: _____

ATTEST:

By: _____
Marie Izquierdo
Chief Academic Officer
Office of Academics and Transformation

Date: _____

Approved as to Form and Legal Content:

School Board Attorney

Date: _____

FOR THE CITY OF MIAMI BEACH:

THE CITY OF MIAMI BEACH:

By: _____
Jimmy L. Morales, City Manager

Date: _____

ATTEST:

By: _____
Rafael E. Granado, City Clerk

Date: _____

Exhibit A

2018-2019 Dual Enrollment Articulation Agreement (the “Articulation Agreement”)